

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

CLIFTON REESE,

Plaintiff,

vs.

TYSON FOODS, INC.,

Defendant.

Case No. 3:21-cv-05087-RK

DEFENDANT’S MOTION TO DISMISS

Defendant Tyson Foods, Inc. (“Defendant”) hereby moves to dismiss Plaintiff’s Petition in its entirety pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted. With respect to Counts I and V (retaliation and religious discrimination), Plaintiff’s Petition fails entirely to allege exhaustion of administrative remedies. In any event, Plaintiff’s allegations of retaliation and discrimination are insufficient under Missouri law. With respect to Counts II, II, and IV (assault, breach of contract, and invasion of privacy), those claims are preempted by the MHRA, which provides “the exclusive remedy for any and all claims for injury or damages arising out of an employment relationship.” Mo. Rev. Stat. § 213.070.2. And finally, even without considering the MHRA’s exclusive remedy provision, Counts II through IV nevertheless fail for lack of sufficient pleading. As set forth in further detail in Defendant’s Memorandum in Support, Plaintiff’s Petition should be dismissed in its entirety with prejudice.

WHEREFORE, for the reasons set forth above and in the Memorandum in Support filed contemporaneously herewith, Defendant moves for the dismissal of Plaintiff’s Petition.

Respectfully submitted,

/s/ Curtis R. Summers

Curtis R. Summers, Bar No. 58352

Direct: 816.627.4427

E-Fax: 816.817.2696

csummers@littler.com

Dylan M. Long, Bar No. 68217

Direct: 816.627.4404

E-Fax: 816.817.5316

LITTLER MENDELSON P.C.

1201 Walnut Street, Suite 1450

Kansas City, MO 64106

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2021, a true and correct copy of the above and foregoing was filed via the Court's CM/ECF system, which sent electronic notice to the following:

John L. Young
APPLEBY AND HEALY, PC
119 North Second St.
P.O. Box 158
Ozark, MO 65721
Phone: (417) 581-2411
Fax: (417) 581-2447
Email: jyoung@ApplebyHealy.com

ATTORNEY FOR PLAINTIFF

/s/ Curtis R. Summers

Attorney for Defendant